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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JAN 16 2003

OFFICE OF
MANAGING DIRECTOR

Ellen Mandell Edmundson
Edmundson & Edmundson
1818 N Street, N.W.
Suite 700
Washington, DC 20036

Re: Request for Filing Fee Waiver
And Refund
Fee Control No. 0211048994213010

Dear Ms. Edmundson:

This letter is in response to your request dated November 1, 2002 for waiver and refund of the filing fee in the amount of \$450 submitted on behalf of Miguel A. Mendez, Trustee, in connection with the pro forma assignment of CMRS licenses from Borinquen Beepers, Inc. to the Trustee.

You recite that Borinquen Beepers, Inc. is currently in Chapter 7 bankruptcy and attach in support a notification issued by the United States Bankruptcy Court for the District of Puerto Rico, which indicates that the bankruptcy case was filed on August 2, 2002. You request a refund of the filing fee based on financial hardship.

Section 1.1117 of the Commission's Rules, 47 C.F.R. § 1.1117, provides that filing fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 3558, 3572-73 (1990). We find that Borinquen Beepers, Inc.'s current bankruptcy substantiates its claim of financial hardship and demonstrates good cause for waiver and refund of the filing fee. See MobileMedia Corporation, 14 FCC Rcd 8017, 8027 (1999) (bankruptcy establishes good cause for waiver of filing fee). Therefore, your request is granted.

A check, made payable to the maker of the original check and drawn in the amount of \$450 will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,


Mark A. Reger
Chief Financial Officer

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of)
Miguel A. Mendez, Trustee)
Form 603 Application For Involuntary)
Pro Forma Assignment of Licensees)
From: Borinquen Beepers, Inc.)
To: Miguel A. Mendez, Trustee)
CMRS stations WPAU779, WNPX782,)
WPJY220, WNLA831, WPGN245,)
WPGD237, WPHC481, WPHC482 and)
WPHC479 at various locations in)
Puerto Rico)

OMD Docket No. _____
Application File No. 0001075114

To: The Managing Director

REQUEST FOR WAIVER AND FILING FEE REFUND

Miguel A. Mendez, Chapter 7 Bankruptcy Trustee for Borinquen Beepers, Inc. ("Trustee"), through counsel and pursuant to Section 1.1117 of the Commission's rules, hereby respectfully requests waiver and refund of the \$450 filing fee paid in connection with the above-referenced Form 603 application to assign the licenses of Borinquen Beepers, Inc. to the Trustee pursuant to Court Order, based on financial hardship.

In accordance with Section 1.1117(c) and (e), this submission is in the form of a separate pleading marked to the attention of the Managing Director, and is accompanied by:

Exhibit 1: a copy of the Form 603 application that was filed electronically in the ULS on October 30, 2002;

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Exhibit 2: a copy of the Form 159 Remittance Advice and \$450 filing fee check (\$50 x 9 call signs) (FEE CODE PALM) submitted under separate cover to the FCC's fee lockbox; and

Exhibit 3: a copy of the notification of the Chapter 7 bankruptcy of Borinquen Beepers, Inc., issued by the United States Bankruptcy Court, District of Puerto Rico, on August 6, 2002, in Case No. 02-08138ESL ("Bankruptcy Notification").

In support hereof, the following is respectfully shown:

Section 1.1117 of the Commission's rules provides for waiver of FCC filing fees upon a showing of good cause and a finding that the public interest will be served thereby. Section 1.1117(c) provides for waiver of filing fees based on financial hardship. Under Commission policy, "[e]vidence of bankruptcy or receivership is sufficient to establish financial hardship."¹ The Commission has recognized that under such circumstances,

"[W]aiver of the fee will serve the public interest by enabling [the licensee in bankruptcy] to preserve assets that will accrue to innocent creditors."²

Consistent with the above-cited precedent, it is respectfully submitted that the Bankruptcy Notification attached hereto as Exhibit 3 evidences financial hardship and that grant of the requested financial hardship waiver will serve the public interest.

¹ *Memorandum Opinion and Order*, "Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year," 10 FCC Rcd 12759 at para. 14 (1995).

² *See e.g., Mobilemedia Corporation*, 14 FCC Rcd 8017 at para. 40 (1999).

The Form 159 Remittance Advice accompanying the fee payment for the subject application reflects that the payor of the subject fee is:


Metro Beeper, Inc. (FRN No. 0001-7273-61)
P.O. Box 29742
San Juan, PR 00929-0742

It is therefore respectfully submitted that the fee be refunded directly to Metro Beeper, Inc.

WHEREFORE, the premises considered, it is respectfully requested that the instant filing fee refund request be granted.

Respectfully submitted,

MIGUEL A. MENDEZ, TRUSTEE

By: 
Ellen Mandell Edmundson
Counsel

Edmundson & Edmundson
1818 N Street, N.W. – Suite 700
Washington, D.C. 20036
202-223-8580

November 1, 2002